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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,777	08/18/2003	Joseph Brown	BROWN-001XX	3681

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EXAMINER

NGUYEN, TUAN N

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/642,777

Applicant(s)

BROWN, JOSEPH

Examiner

Tuan N. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-29 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-29 and 31-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 4/13/06 have been fully considered but they are not persuasive. The arguments directed to claims 23 and 31 are moot in view of the new matter issues as indicated below. Furthermore, the interposing material is pre-mount to the countertop opening via screw, nail, adhesive, etc. and become part of the countertop, the sink and mount is inserted thereafter. The mount of both White and Lyon do have the flexible sink engagement section contacting at least one side of the opening in the countertop regardless the at least one side of the opening in the countertop has an interposing material or not. The design of the White and Lyon are to engage the side of the opening in the countertop to grip the sink therein.

Claim Objections

2. Claim 34 is objected to because of the following informalities: "said sink lip section" in line 6 lacks antecedent basis in the claim; furthermore, "lip section lip section" is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 23-29 and 31-34 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably

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convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amended limitations in lines 4-23 of claim 1, in line 4 of claim 25, in lines 2-6 of claim 26, in lines 2-5 of claim 27, and "without interposing material" in line 10 of claim 31 were not presented in the original specification. Hence, they are being regarded as new matter.

Specification

4. The amendment filed 4/13/06 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: see the 35 U.S.C. 112, first paragraph rejection above.

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 23-25, 31, 32 and 34 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,793,190 (hereinafter White).

In regard to claims 23-25, White discloses a mount (see Figs. 2 and 3) for securing a sink within an opening in a countertop having at least one side, the mount comprising a body portion (the right portion of base 168) adapted be secured to the sink; and a flexible sink engagement section (about 170A). The flexible sink engagement section including a first section having a first end disposed proximate a first end of the body portion; a second portion disposed proximate a second end of the first section, the second section having a tip (about 170B) adapted engage a substantially vertical face of the opening in the countertop when the sink is disposed within the opening the countertop; and (as best understood) inherently, there is means biasing flexible sink engagement section form an unbiased position wherein the flexible sink engagement section is disposed at a first angle relative to a longitudinal axis of the body portion to an installed, biased position wherein the flexible sink engagement section is biased against the vertical face of the countertop opening and is inherently disposed at a second angle relative to the longitudinal axis of the body portion, wherein the second angle is inherently less than the first angle since it is pressed by the vertical face of the countertop. The body portion further includes a channel engagement section (the left portion of base 168 including the aperture for shaft 178) and the vertical portion to the left thereof) dispose proximate a second end of the body portion. The channel engagement section includes a substantially horizontal portion (the left portion of base 168) secured to the second end of the body portion and a substantially vertical portion (the vertical portion to the left base 168) disposed proximate an end the substantially horizontal portion, wherein the substantially horizontal and vertical portions are sized

and shaped to engage an outside surface of a channel (30) on the sink. The mount further includes a fastener (174) having a head (176) disposed proximate a first end and a threaded region wherein the head of the fastener is sized and shaped to fit within the channel on the sink.

In regard to claims 31, 32 and 34, the method as claimed would be inherent during normal assembly of the White device.

6. Claims 23, 26, 27, 31, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 3,071,780 (hereinafter Lyon).

Lyon discloses a mount (see Fig. 2) for securing a sink within an opening in a countertop having at least one side, the mount comprising a body portion (22) adapted be secured to the sink; and a flexible sink engagement section (24). The flexible sink engagement section including a first section having a first end disposed proximate a first end of the body portion; and a second portion disposed proximate a second end of the first section, the second section having a tip adapted engage a substantially vertical face of the opening in the countertop when the sink is disposed within the opening the countertop. The mount is secured to the sink by an adhesive layer or by integrally welded to the sink and the location sink where the mount is secured thereto is considered as the sink lip section.

In regard to claims 31, 33 and 34, the method as claimed would be inherent during normal assembly of the Lyon device.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over White.

The White flexible sink engagement section obviously has an angle (A1) and an angle (A2) similar to that of the applicant but is silent as to the specific of the angle A1 being between about 30 and about 60 degrees in an unbiased condition and the angle A2 being between about 15 and about 30 degrees in an unbiased condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to obtain a workable angle range as claimed since it has been held that where the general conditions of a claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within


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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Tuan Nguyen
Primary Examiner
Art Unit 3751
6/25/06

TN